

2009 DCF & Wisconsin Indian Tribes Consultation Implementation Plan

The Wisconsin Department of Children and Families (DCF) and the federally recognized Indian Tribes in Wisconsin held their first Tribal Consultation meeting on September 17, 2008 and a mid-year status consultation on April 1, 2009. This implementation plan is the product of those meetings. Issues and deliverables that were completed were removed from the plan. The resulting plan updates a set of mutually agreed-upon short- and long-term strategies designed to address issues related to Tribes and Tribal children and families. The Department and the Wisconsin Indian Tribes agree to collaborate and provide staff as required to successfully achieve these outcomes.

RESOLUTION OF ISSUES

Issue: The DCF Tribal Consultation policy language regarding resolution of issues needs to be amended to provide more specificity to the process of problem resolution, especially at the highest levels in the Department.

Deliverable	Due Date	Party/ies Responsible	Status of Deliverable
DCF will convene a work group comprised of DCF, DHS, and Tribal members to develop proposed language. This language will be reviewed and finalized at the Fall 2009 Consultation Meeting.	September 1, 2009	Kimmie Collins, DCF Mark Mitchell, DCF/OLC, Jim Weber DHS	

TRIBAL REPRESENTATION ON WORKGROUPS, COMMITTEES, ETC.

Issue: According to the DCF Consultation Policy, if a workgroup or committee related to child welfare is established and not all tribes can be represented due to the limited size of the body, DCF will consult with the Inter-Tribal Child Welfare Directors Committee to identify tribal representatives. Similar processes need to be established for DCF workgroups or committees not directly related to child welfare (e.g., child support, W-2, domestic violence, child care)

Deliverable	Due Date	Party/ies	Status of Deliverable
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		Responsible	
Determine the need for and potential procedures for establishing other tribal committees or advisory groups similar to the Inter-Tribal Child Welfare Directors Committee.	September 1, 2009	Kimmie Collins, DCF Mark Mitchell, DCF/OLC	

CHILD WELFARE

Issue: Incorporate ICWA into Wisconsin Law

At the present time, Chapter 48, Stats., (the Children's Code) and Chapter 938, Stats., (the Juvenile Justice Code) merely reference the Indian Child Welfare Act (25 USC 1901 to 1963) and do not actually include the language of that Act. Because of this, caseworkers, judges, and attorneys oftentimes overlook ICWA requirements and are not aware of situations where federal ICWA legislation takes precedence over Wisconsin state law. In response to this problem, a work group comprised of DCF program and legal staff, Indian Child Welfare Directors, tribal attorneys, and the Director of State Courts Office (as ex-officio members) has developed statutory language that codifies the requirements of ICWA into Chs. 48 and 938.

Deliverable	Due Date	Party/ies Responsible	Status of Deliverable
Distribute the final draft of the bill	July 1, 2009	Mark Mitchell, DCF/OLC	
Implement strategies to ensure that the bill is introduced in the Legislature (e.g., providing information to legislators, developing issue papers)	September 1, 2009	Cyrus Behrooz, DCF/DSP Mark Mitchell, DCF/OLC; Kimmie Collins, DCF	
DCF will develop and propose a training curriculum and schedule, to be implemented upon enactment of the codification bill.	September 1, 2009	Cyrus Behrooz, DCF/DSP	
DCF will offer assistance to the Director of	July 31, 2009	Nancy	

State Courts Office and the UW Law School in the development of jury instructions related to CHIPS and TPR proceedings involving Indian children		Wettersten Mark Mitchell DCF/OLC	
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Issue: Compliance with the Indian Child Welfare Act

County agencies, courts, and other entities need to be provided with tools to assist them in complying with the Indian Child Welfare Act and DCF needs to assure that county agencies are complying with the Act.

Deliverable	Due Date	Party/ies Responsible	Status of Deliverable
DCF will check to see that forms incorporated in eWiSACWIS are moved from the administrative tab in the March release of revisions to eWiSACWIS.	March 31, 2009	Mark Mitchell, DCF/OLC; Cyrus Behroozi, DCF/DSP	
DCF staff should examine alternative methods to change eWiSACWIS to include ticklers and other tools to remind county and state staff to complete the appropriate forms, attempt to determine whether a child is an Indian child, determine the tribal affiliation of Indian children, and provide appropriate notification to tribes.	September 30, 2009	Mark Mitchell, DCF/DSP; Cyrus Behroozi DCF/DSP	
Incorporate ICWA requirements into the CQI process.	October 31, 2009	Nikki Hatch, DCF/ OPQA	
Work with counties and tribes to provide consultation on ICWA compliance and complaint procedures	October 31, 2009	Cyrus Behroozi, DCF/DSP	

Issue: Relinquishment of Indian Children

Current state statutes conflict with the Indian Child Welfare Act on this issue. Amendments to state law or some alternative solutions need to

be developed to rectify this conflict.

Deliverable	Due Date	Party/ies Responsible	Status of Deliverable
DCF staff will review Ch. DCF 39, Adm. Code, re: infant relinquishment to determine if changes can be made to mitigate some of the issues involved.	September 1, 2009	Mark Mitchell & Nancy Wettersten, DCF/OLC	
DCF will confer with the Milwaukee County District Attorney's Office and Judges to attempt to resolve differences of opinion on tribal notification procedures under ICWA.	June 1, 2009	Cyrus Behroozi, DCF/DSP; Nancy Wettersten, DCF/OLC	
DCF will consult with staff of the Division of Public Health in the Department of Health Services to determine options for clarifying the purpose of the infant relinquishment law and its relation to Indian Child Welfare Act for hospital and other medical staff.	June 1, 2009	Cyrus Behroozi DCF/DSP, Mark Mitchell & Nancy Wettersten DCF/OLC	
DCF will establish a small workgroup to examine how the issue has been handled in other states, especially those states in which Tribes are located.	June 1, 2009	Cyrus Behroozi DCF/DSP Mark Mitchell & Nancy Wettersten, DCF/OLC	

Issue: Examine Funding Options for Tribal Child Welfare Services

At the present time, the Department provides child welfare program funding to some tribes and general funding to all tribes through the Family Services Program (administered by the Department of Health Services). In addition, the placement of Indian children in out-of-home care by Tribal courts is funded by both Tribes and counties. Payments by counties for out-of-home placements ordered by Tribal courts are made pursuant to a 161 Agreement between that county and the Tribe. Over the last several years, a number of issues have arisen relative to the effectiveness and fairness of these County-Tribe agreements. At least one Tribe has expressed an interest in examining funding options to provide the full range of child welfare services. A workgroup was established in June of 2007 to research funding options and alternative

operating structures for Indian child welfare services in Wisconsin.			
Deliverable	Due Date	Party/ies Responsible	Status of Deliverable
DCF and tribal representatives will develop a model State/Tribal Title IV-E Agreement	July 1, 2009	John Tuohy DCF/DSP	
DCF leadership will provide a response to the report to the Alternative Funding Workgroup.	July 1, 2009	Reggie Bicha, Angela Russell, & Kimmie Collins, DCF	
The Alternative Funding Workgroup, based on responses from DCF and Tribes, will prioritize the recommendations in the report and, as appropriate, establish work plans.	August 30, 2009	Mark Mitchell, DCF/OLC; Cyrus Behroozi DCF/DSP Kimmie Collins DCF	

Issue: Foster Home Placements and Resources			
Tribes are experiencing substantial problems with the Interstate Compact on the Placement of Children (ICPC), in some part due to county staff (both in Wisconsin and in other states) not following ICWA and/or ICPC.			
Deliverable	Due Date	Party/ies Responsible	Status of Deliverable
<p>Investigate the adherence to and use of ICPC and ICWA in the placement of Indian children</p> <p>There is a commission on courts and the families that is doing a survey on ICPC. DCF will look into the activities of the commission.</p> <p>Research will be conducted to determine what, if any, federal action has been taken on this issue.</p>	June 2009	Nancy Wettersten, DCF/OLC	

Notify tribes that any issues they experience related to ICPC should be forwarded to Nancy Wettersten.	July 1, 2009	Nancy Wettersten, DCF/OLC	
Examine ICPC procedures in other states to determine if there are better methods that can be used to resolve issues for Tribes located in Wisconsin.	October 31, 2009	Cyrus Behroozi, DCF/DSP	
Notify Tribes that DCF ICPC staff is available to provide them with technical assistance in working with ICPC or county offices in other states.	June 1, 2009	Cyrus Behroozi, DCF/DSP	
Inter-Tribal Child Welfare Directors Committee will look at this issue to offer more clarity to the problem and possible options to resolve the problem.	October 31, 2009	ICW Directors	
Clarify the authority of tribes to license foster homes on reservations or trust lands, and determine whether this authority extends to homes off of the reservations or trust lands.	October 31, 2009	Mark Mitchell & Nancy Wettersten DCF/OLC	
Examine possible “full faith and credit” language for foster homes licensed by tribes in 161 Agreements and Chs. DCF 56 and 38, Adm. Code.	December 2009	Mark Mitchell, DCF/OLC; Cyrus Behroozi DCF/DSP	

CHILD SUPPORT

Issue: A recently created Wisconsin Supreme Court rule related to the transfer of cases from circuit courts to tribal courts has resulted in possibly unintended consequences for child support agencies, both tribal and county.

Deliverable	Due Date	Party/ies Responsible	Status of Deliverables
Identify potential solutions to the problems created by the new Supreme Court rule regarding case transfers. DCF will host a conference call with tribal child support program staff to gather input and opinions regarding exemptions, notices, and other issues related to case transfers	June 31, 2009	Julie Kerksick DCF/DFES	
Identify any role that DCF can or should play in the resolution of issues.	July 31, 2009	Julie Kerksick DCF/DFES	